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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0149]

[Docket 2012-0076; Sequence 15]

Federal Acquisition Regulation;

Information Collection; Subcontract Consent

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000-0149).

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning subcontract consent. A notice was published in the Federal Register at 77 FR 29983, on May 21, 2012. One respondent submitted comments.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulation (FAR), and whether it will have practical utility; whether our estimate of the public burden of this

collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before **[Insert date 30 days after publication in the Federal Register.]**

ADDRESSES: Submit comments identified by **Information Collection 9000-0149, Subcontract Consent**, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000-0149, Subcontract Consent". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0149, Subcontract Consent" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington,

DC 20417. ATTN: Hada Flowers/IC 9000-0149, Subcontract Consent.

Instructions: Please submit comments only and cite Information Collection 9000-0149, Subcontract Consent, in all correspondence related to this collection. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, Contract Policy Division, GSA, (202) 501-2364 or via email at karlos.morgan@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The objective of consent to subcontract, as discussed in FAR Part 44, is to evaluate the efficiency and effectiveness with which the contractor spends Government funds, and complies with Government policy when subcontracting. The Government requires a contractor to provide certain information (e.g., subcontractor's name, type of subcontract, price, description of supply or services, etc.) reasonably in advance of placing a subcontract to ensure that the proposed subcontract is appropriate for the risks involved and consistent with current policy and sound business judgment. The

information provides the Government a basis for granting, or withholding consent to subcontract.

B. Discussion and Analysis

Comment: The respondent questioned whether the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

Response: In accordance with the Paperwork Reduction Act (PRA), agencies can request OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment process, to extend OMB's approval, at least every three years. This extension, to a previously approved information collection, pertains to FAR Subpart 44.2, Consent to subcontract and the contract clause at FAR 52.244-2, Subcontracts. The purpose of the clause is to provide the prime contractor with consent to perform some requirements of the contract through the use of a subcontract or subcontractor. Prime contractors and the government have a direct legal relationship; however, the government does not have such a relationship with subcontractors. As a result, the prime contractor is obligated to ensure that the requirements of the contract are met properly, including those requirements

performed by the subcontractor. Failure to grant this extension would have a detrimental impact on a contractor's ability to provide goods and services to the Federal Government.

Comment: The respondent questioned that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. For this reason, the respondent provided that the Agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007-006. The respondent also provided that the burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

Response: Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made based on the comment considering particularly the hours that would be

required for review within the company, prior to release to the Government. The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business.

Careful consideration went into assessing the estimated burden hours for this collection, and it is determined that an upward adjustment is not required at this time. However, at any point, members of the public may submit comments for further consideration, and are encouraged to provide data to support their request for an adjustment.

C. Annual Reporting Burden

Number of Respondents: 4,252.

Responses Per Respondent: 3.61.

Total Responses: 15,349.

Average Burden Hours Per Response: .87.

Total Burden Hours: 13,353.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417, telephone (202) 501-4755. Please cite OMB Control No. 9000-0149, Subcontract Consent, in all correspondence.

Dated: September 5, 2012

William Clark,
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Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy,
Office of Governmentwide Policy.

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